

Remarks

Favorable consideration of the application, in view of the above amendments and in light of the following remarks and discussion, is respectfully requested.

Claims 1-42 are currently pending in the application; new independent Claim 42 having been added by way of the present response.

In response to the Office Action dated November 24, 2003, Applicants elect with traverse species (a.). Applicants respectfully concur with the Office Action's assertion that Figures 1-6, 8-10, 13A, and 13B show examples of species (a.) However, Applicants respectfully assert that Figure 12 also shows examples of species (a.). Accordingly, Applicants respectfully identify original Claims 1-7 and 22-31, as well as new independent Claim 42 (which additionally reads on species (b.)), as reading on the provisionally elected species.

Applicants respectfully traverse the outstanding requirement for several reasons.

First, the outstanding Office Action merely includes the conclusory statement that "[t]his application contains claims directed to the following patentably distinct species" without stating any basis whatsoever in support of such a finding. This is in violation of 809.02 MPEP § 816, which states:

The particular reasons relied on by the examiner for holding the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given.

In the absence of any annunciated basis, it is respectfully submitted that the PTO clearly has not carried forward its burden of proof to establish distinctness.

Secondly, MPEP § 806.04(f) requires:

Claims to be restricted to different species must be mutually exclusive.

The outstanding Official Action fails to address in any way whether the pending claims recite mutually exclusive characteristics and this failure provides a further basis for traversing the election of species requirement.

Finally, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area. Accordingly, Applicants also respectfully traverse the outstanding requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Therefore, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 1-42 be conducted.

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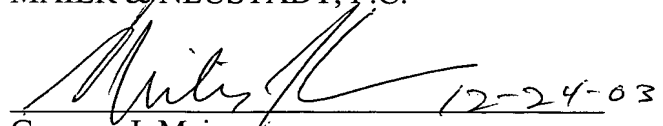
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(OSMMN 08/03)

Respectfully submitted,

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A handwritten signature in dark ink, appearing to read 'Maier', is written over a horizontal line. To the right of the signature, the date '12-24-03' is handwritten.

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